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7 Attorneys for Defendants
8 HSBC MORTGAGE CORPORATION (USA) AND
HSBC BANK USA, N.A.
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 Philip Wong, Frederic Chaussy, and Leslie
Marie Shearn, individually, on behalf of all
14 others similarly situated, and on behalf of
the general public,

15 Plaintiffs,

16 v.

17 HSBC Mortgage Corporation (USA);
18 HSBC Bank USA, N.A.; and DOES 1
through 50, inclusive,

19 Defendants.
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Case No. C 07 2446 MMC [ECF]

**DECLARATION OF DEBBIE A. DEZEGO
IN OPPOSITION TO PLAINTIFFS'
MOTION FOR CLASS CERTIFICATION
UNDER FED. R. CIV. P. 23**

Date: October 10, 2008
Time: 9:00 a.m.
Courtroom: 7 (19th Floor)
Judge: Hon. Maxine M. Chesney

1 I, Debbie A. DeZego, hereby declare and state:

2 1. I have personal knowledge of the facts set forth below. If called as a witness,
3 I could and would testify to the following.

4 2. I am employed by HSBC Mortgage Corporation (USA) (hereinafter
5 "HMCU"). My title is "Senior Vice President, Divisional Manager, Downstate Region." In my job,
6 I am responsible for overseeing the retail business of HMCU in the "Downstate Region" of the
7 United States, which includes the following territory: Connecticut, Westchester, Rockland,
8 Manhattan, Brooklyn, Bronx, Queens, Long Island, Staten Island and New Jersey. As part of my
9 job, I oversee four (4) Regional Managers, twelve (12) Sales Managers, three (3) Business
10 Development Officers, and one hundred thirteen (113) mortgage lending consultants.

11 3. I have worked with the same mortgage company since 1972, which at the time
12 was Williamsburgh Savings Bank. In approximately 1987, Williamsburg Savings Bank was
13 acquired by Republic National Bank. Republic National Bank merged with HMCU in 2000. I have
14 been in a management position since 1987.

15 4. Because of my position as "Senior Vice President, Downstate Region," I have
16 knowledge about HMCU's requirement regarding the collection of application fees from customers.

17 5. HMCU requires mortgage lending consultants (otherwise known as "loan
18 officers") to collect mortgage loan application fees from customers at the time the loan officer enters
19 and submits a customer's loan application in HMCU's loan application and tracking system, Loan
20 Quest. The application fee is a non-refundable fee.

21 6. If a loan officer fails to collect the required application fee, HMCU's
22 Mortgage Sales Incentive Plan for Retail Loan Consultants ("Incentive Plan") specifies that the
23 amount of the application fee that was not collected should be subtracted as part of the loan officer's
24 incentive compensation calculation.

25 7. While HMCU has told loan officers that they are required to collect this
26 application fee and that failure to do so will be factored into their incentive compensation under the
27 Incentive Plan, I have, under some circumstances, made exceptions to this requirement and have
28 decided to not charge the loan officer's incentive compensation with the uncollected application fee

1 amount.

2 8. I have decided to not charge the loan officers' incentive compensation with
3 this uncollected application fee amount in circumstances when there has been a transfer of the
4 application fee because the loan failed to close in one type of lending program, but we filed a new
5 application for a loan through another lending program. I have also decided to not charge the
6 uncollected application fee to loan officers' incentive compensation when the customer has
7 threatened to file a "Presidential Complaint," which is a complaint to HMCU's President, requesting
8 a refund of the customer's application fee. In a case such as this, I refund the customer's application
9 fee without charging the loan officer for the fee that was not retained by HMCU.

10 9. In situations where there is an uncollected application fee, such as the
11 situation where a customer has threatened to file a "Presidential Complaint" or where the customer
12 has filed more than one application, the loan officer provides input to his or her manager about the
13 circumstances of the particular loan application(s). Any decision as to whether or not the amount of
14 the uncollected or disputed application fee will be absorbed by HMCU or subtracted from the loan
15 officer's incentive compensation is made on a case-by-case basis with the loan officer's input about
16 the circumstances of the particular loan application(s).

17 I declare under penalty of perjury under the laws of the States of California and New
18 York and the United States of America that the foregoing declaration is true and correct to the best
19 of my personal knowledge.

20 Executed this 18 day of September, 2008, in Queens, New York.

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23 DEBBIE A. DEZEGO
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